

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**TINA M. HALE, as next of kin of
MICHAEL HALE, DECEASED**

Plaintiff,

v.

**ASSURITY LIFE INSURANCE
COMPANY**

Defendant.

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C.A. NO. 5:20-cv-00250

NOTICE OF REMOVAL

Defendant Assurity Life Insurance Company (“Assurity”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and would show the Court as follows:

I. COMMENCEMENT AND SERVICE

1. On January 17, 2020, Plaintiff Tina M. Hale (“Plaintiff”) commenced this action against Assurity by filing her Original Petition and Request for Disclosure (“Petition”) in the 37th Judicial District Court, of Bexar County, Texas, styled Cause No. 2020-CI-01142, *Tina M. Hale v. Assurity Life Insurance Company*.¹

2. Assurity was served with service of process and Plaintiff’s Petition through its designated agent for service by certified mail on February 10, 2020.²

3. This Notice of Removal is filed within thirty days of Assurity’s receipt of Plaintiff’s Petition and within one year of the commencement of this action in accordance with 28 U.S.C. section 1446(b).

¹ See Exhibit A, Copy of Plaintiff’s Petition.

² See Exhibit B, Citation.

II. GROUNDS FOR REMOVAL

4. Assurity is entitled to remove the entire state court matter to this Court pursuant to 28 U.S.C. § 1332(a). Section 1332(a) provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different states”

5. Removal of the entire state court matter to this Court is also proper under 28 U.S.C. §§ 1441(a) and 1446(a) because this Court’s district and division embraces the pending state court action in the 37th District Court, of Bexar County, Texas.

6. Because the parties are completely diverse and the amount in controversy exceeds \$75,000 under 28 U.S.C. § 1332(a), Assurity is entitled to remove this case to this Court pursuant to 28 U.S.C. § 1441.

III. THE PARTIES ARE COMPLETELY DIVERSE

7. This is an action with complete diversity of citizenship between Plaintiff and Assurity.

8. Upon information and belief, Plaintiff is an individual domiciled in the state of Texas.³ Plaintiff is therefore a citizen of Texas within the meaning and intent of 28 U.S.C. § 1332.

9. Assurity is incorporated in the State of Nebraska and has its principal place of business in Lincoln, Nebraska. Assurity is therefore a citizen of Nebraska within the meaning and intent of 28 U.S.C. § 1332.⁴

³ See Exhibit A at 1.

⁴ *Id.*

10. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists between the proper parties.

IV. AMOUNT IN CONTROVERSY EXCEEDS \$75,000

11. Plaintiff specifies the amount of damages sought in her Petition as “monetary relief of more than \$100,000.”⁵

12. Accordingly, this Court has jurisdiction under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.

V. VENUE

13. Venue lies in the United States District Court for the Western District of Texas – San Antonio Division pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed the state court action in this judicial district and division.

VI. CONSENT TO REMOVAL

14. Because Assurity is the only defendant, all defendants join in and consent to this removal.

VII. NOTICE

15. Assurity will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Assurity will also file with the clerk of the state court, and will serve upon Plaintiff’s counsel, a notice of the filing of this Notice of Removal.

VIII. JURY DEMAND

16. Plaintiff has demanded a jury trial in the state court action.⁶

⁵ See Exhibit A at 2.

⁶ See Exhibit A at 8.

IX. STATE COURT PLEADINGS

17. Copies of all state court pleadings and orders are attached to this Notice of Removal. This case is being removed from the 37th District Court, of Bexar County, Texas, 101 W. Nueva, Suite 217, San Antonio, Texas 78205.

X. EXHIBITS TO NOTICE OF REMOVAL

18. The following documents are attached to this Notice as correspondingly lettered exhibits:

Exhibit A: Copy of Plaintiff's Original Petition and Request for Disclosure

Exhibit B: Copy of Citation

Exhibit C: Docket Sheet

XI. CONCLUSION

WHEREFORE, Defendant Assurity Life Insurance Company, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 37th District Court, of Bexar County, Texas to this Court.

Dated: March 2, 2020.

Respectfully submitted,

MCDOWELL HETHERINGTON LLP

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**ATTORNEYS FOR DEFENDANT
ASSURITY LIFE INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the 2nd day of March, 2020 on the following counsel of record by certified mail, return receipt requested:

Pete T. Patterson
4309 Yoakum Blvd., Suite 2000
Houston, Texas 77006

/s/ Blaire B. Johnson

Blaire B. Johnson